

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELISEO DAVID BAUTISTA,
Appellant,
vs.
CASSIE L. RISING,
Respondent.

No. 53097

FILED

MAR 05 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order imposing sanctions upon appellant's counsel. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Respondent has filed a motion to dismiss this appeal for lack of jurisdiction. In particular, respondent contends that appellant has no interest in the sanctions order being appealed, as the sanctions were imposed solely on his counsel and his counsel is not a party with standing to appeal. Appellant urges this court to overturn its longstanding interpretation of NRAP 3A(a) and expand the definition of a "party" who may appeal. Appellant also suggests that, even though he is not responsible for paying the sanctions imposed on his counsel, his interest in the underlying case could somehow be affected. Alternatively, appellant asks this court to construe the appeal as a writ petition.

Only an aggrieved party may appeal. NRAP 3A(a). A party is aggrieved when a judgment adversely and substantially affects either a personal right or a property right. Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994). Here, appellant is not responsible for paying the sanctions imposed on his counsel, and he is thus not aggrieved.

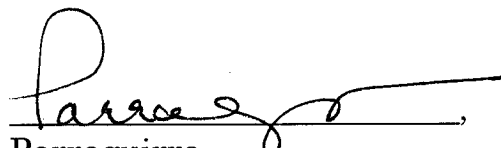
Also, while the original notice of appeal named only the defendant below as the appellant, his opposition to the motion to dismiss includes an “amended or supplemental” notice of appeal that includes counsel as an appellant.¹ But as respondent points out, this court has consistently held that a party’s counsel is not himself a party with standing to appeal. Washoe County Dist. Attorney v. Dist. Ct., 116 Nev. 629, 5 P.3d 562 (2000); Albert D. Massi, Ltd. v. Bellmyre, 111 Nev. 1520, 908 P.2d 705 (1995); Albany v. Arcata Associates, 106 Nev. 688, 799 P.2d 566 (1990). This court adopted its position after carefully weighing the competing authority and policies, see, e.g., Valley Bank, 110 Nev. at 446-48, 874 P.2d at 734-35, and cases cited therein, and despite appellant’s invitation to overturn this line of authority, we are not persuaded that reconsideration of this longstanding precedent is warranted. Appellant’s counsel’s remedy is in the form of an original writ petition challenging the sanctions order. See, e.g., Washoe County Dist. Attorney, 116 Nev. at 635, 5 P.3d at 566.²

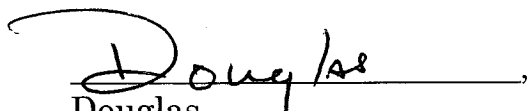
Accordingly, as we lack jurisdiction, we

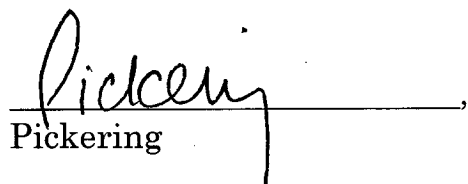
¹The exhibit to appellant’s opposition includes a district court file stamp dated February 5, 2009, but the notice of appeal has not yet been transmitted to this court pursuant to NRAP 3(e).

²We deny appellant’s alternative request to construe this appeal as a writ petition. Procedural requirements for writ petitions are materially different from those for appeals, see NRAP 21(a) (setting forth requirements for a writ petition’s contents and service) and NRS 34.170 (requiring an affidavit of the party beneficially interested), and appellant has not demonstrated any exigent circumstances that preclude his counsel from preparing, filing, and serving a proper writ petition, if he so chooses.

ORDER this appeal DISMISSED.³

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Steven P. Elliott, District Judge
Emerson & Manke, LLP
Lemons Grundy & Eisenberg
Holland & Hart LLP/Reno
Kevin D. Rising
Washoe District Court Clerk

³In light of this order, we deny as moot respondent's motion for leave to file a reply.